

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 688 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAAVJIBHAI P PATEL

Versus

RAISINH R CHAVDA

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Appearance:

MR NILESH A PANDYA for Petitioner  
MR KM PARIKH for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/11/98

ORAL JUDGEMENT

This Revision Application under Section 115 of the Civil Procedure Code, 1908 is directed by the original plaintiff petitioner against the order dated 21.3.95 of the Extra Assistant Judge, Baroda in Misc. Civil Appeal No.262 of 1994, under which the order of the Civil Judge (JD), Vadodara in regular civil suit no.994 of 1990 below Ex.5 dated 30.8.93 was quashed and set aside.

2. The plaintiff petitioner filed regular civil suit no.994 of 1990 in the Court of Civil Judge (JD), Vadodara against the defendant respondent for declaration and injunction that he is in possession of the disputed suit agricultural land and the defendant respondent, his servants, agents, assignees shall be restrained from disturbing his possession. Alongwith the suit the plaintiff petitioner filed an application for grant of temporary injunction under order 39 Rules 1 & 2 of the Civil Procedure Code. The learned Trial Court after hearing the learned Counsel for the parties under its order below Ex.5 dated 30.8.93 ordered for maintaining status quo of the suit agricultural land pending the decision of the suit. This order has been carried by the plaintiff respondent in appeal in the court of District Judge, Vadodara which came to be decided by Extra Assistant Judge, Vadodara on 21.3.1995 and the appeal was allowed and the order of the learned Trial Court dated 30.8.93 was set aside.

Hence this revision application is before this Court.

3. This Revision Application has come up for admission before this Court on 10.4.1995. On this date this court has been pleased to admit this revision application and interim relief in terms of Para 14(B) has been granted. Para 14(B) reads as under:-

"Pending the admission, hearing and final disposal of this petition, this Hon'ble Court will be pleased to restrain the respondent, his agents and servants from interfering with the possession of the petitioner of the suit land Revenue Survey No.329, situated in Dokda Village, Distt. Baroda."

4. The interim relief granted by this Court in this Civil Revision Application continues for all these years. The suit out of which this Civil revision application arises is of the year 1990. The plaintiff petitioner claims right, title interest and possession of the disputed land on the basis of a registered sale deed. Whatever ultimately is decided by the Court in the matter of grant of temporary injunction pending litigation i.e. the suit, is not the final adjudication on the rights of the parties. It is only an interim arrangement which has been made in the interest of the parties pending the decision of the suit. In all these facts and circumstances the suit has to be decided expeditiously as the final decision given by it will be only a binding

decision between the parties.

5. The Learned Counsel for the respondent though contended that this Court may decide this revision application on merits, but when this Court has considered it to be a fit case to restrain the defendant respondent, his agents and servants from disturbing the possession of the petitioner on the disputed land and this interim relief granted continues for all these years, so in case for few more months this order is allowed to be continued, it will not harm either of the parties. When for last 8 years the temporary injunction is operating in one or other form against the defendant respondent, it is fair, just, reasonable and in larger interest of the parties themselves that the interim relief granted by this Court and is continued till this day in the form and the manner as this court has ordered under the order passed on 10.4.95 may ordered to be continued till the decision of the suit.

6. The interest of justice will be met in case this revision application is disposed of in the term that the interim relief which has been granted in the revision application on 10.4.95 and continues for all these years shall continue till the disposal of the suit. The Learned Trial Court is directed to decide the suit out of which this civil revision application arises within a period of 9 months from the date of the receipt of the writ of this order.

7. However, while disposing this suit, the learned Trial Court shall not be influenced by the findings which has been recorded by it or the First Appellate Court while dealing with the matter pertaining to the grant of temporary injunction. The revision application and rule stands disposed of accordingly.

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